

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
Beckley Division**

UNITED STATES OF AMERICA )  
                                  )  
                                  )  
**Plaintiff/Respondent,**    )  
                                  )  
v.                             )      **Criminal No. 5:14-CR-00244**  
                                  )      **Civil No. 5:18-CV-00591**  
                                  )  
**DONALD L. BLANKENSHIP**    )  
                                  )  
**Defendant/Movant.**        )

**REPLY TO GOVERNMENT'S REPLY TO MOTION FOR ORAL ARGUMENT**

Donald L. Blankenship, by and through counsel, respectfully submits this Reply to the Government's Reply to his Motion for Oral Argument (ECF No. 734).

The government offers no substantive response to the arguments raised in Mr. Blankenship's Motion for Oral Argument (ECF No. 733). Instead, the government suggests that oral argument is not necessary because the materials and briefing before the Court demonstrate that Mr. Blankenship is not entitled to relief. Not only is this assertion incorrect, but the government misses the broader point entirely. The parties have indeed submitted extensive briefing on Mr. Blankenship's Motion to Vacate and Set Aside Conviction and Sentence Pursuant to § 2255 ("2255 Motion"). This was necessary due to the voluminous amount of exculpatory material that the government has suppressed in this matter and the numerous ways in which the government obfuscated in order to suppress said evidence. It is precisely the degree of briefing and the magnitude of material before the Court that makes oral argument appropriate here. Mr.

Blankenship respectfully submits that oral argument may assist the Court in evaluating the facts and legal issues of the matter.

The government likewise does not attempt to dispute the ongoing harm that Mr. Blankenship continues to suffer as a result of this ill-gotten conviction. For good reason – the harm to him is indisputable. As more fully detailed in his Motion for Oral Argument, Mr. Blankenship has been publicly villainized and had his reputation continually assassinated in the wake of his conviction. It is axiomatic that justice delayed is justice denied. This is especially true here, as the harm to Mr. Blankenship stemming from the wrongful conviction persists, is intensified with each passing day, and will continue until this Court renders its decision.

### **CONCLUSION**

For the foregoing reasons and those stated more fully in Mr. Blankenship’s Motion for Oral Argument, this Court should order oral argument regarding the issues raised in Mr. Blankenship’s 2255 Motion.

Dated: August 8, 2019

Respectfully submitted,

/s/ Benjamin L. Hatch  
Benjamin L. Hatch  
MCGUIREWOODS LLP  
World Trade Center  
101 West Main Street  
Suite 9000  
Norfolk, VA 23510-1655  
Tel: (757) 640-3700  
Fax: (757) 640-3701  
bhatch@mcguirewoods.com

Howard C. Vick  
MCGUIREWOODS LLP  
Gateway Plaza  
800 E. Canal Street  
Richmond, VA 23219-3916  
Tel: (804) 775-1000  
Fax: (804) 775-1061

tvick@mcguirewoods.com

/s/ W. Henry Jernigan, Jr.  
W. Henry Jernigan, Jr. (WVSB No. 1884)  
DINSMORE & SHOHL LLP  
707 Virginia Street, East, Suite 1300  
P.O. Box 11887  
Charleston, West Virginia 25339-1887  
Telephone: (304) 357-0900  
Facsimile: (304) 357-0919  
henry.jernigan@dinsmore.com

*Counsel for Donald L. Blankenship*

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
Beckley Division**

                                )

**UNITED STATES OF AMERICA**                )

                                )

                                )

**Plaintiff/Respondent,**                    )

                                )

                                )

**v.**  )      **Criminal No. 5:14-CR-00244**

                                )

                                )

**DONALD L. BLANKENSHIP**                    )

                                )

                                )

**Defendant/Petitioner.**                      )

**CERTIFICATE OF SERVICE**

I, W. Henry Jernigan, do hereby certify that a foregoing **Reply to Government' Reply To Motion for Oral Argument** was served through the Court's electronic filing system on this the 8<sup>th</sup> day of August, 2019 upon the following counsel of record:

Douglas W. Squires, Esquire  
Assistant U.S. Attorney  
U.S. Attorney's Office for the Southern District of Ohio  
303 Marconi Blvd., Suite 200  
Columbus, OH 43215

/s/ W. Henry Jernigan, Jr.  
W. Henry Jernigan, Jr. (WVSB No. 1884)